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8 Attorneys for
9 DEFENDANT RASH CURTIS & ASSOCIATES

10 UNITED STATES DISTRICT COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA

13 SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ, on Behalf of
14 Themselves and all Others Similarly Situated,

15 Plaintiffs,

16 v.

17 RASH CURTIS & ASSOCIATES,

18 Defendant.
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24

Case No.: 4:16-cv-03396-YGR JSC

**DECLARATION OF TERRENCE PAFF IN
SUPPORT OF**

**(1) RASH CURTIS' *EX PARTE* REQUEST
FOR STAY OF ENFORCMENT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 62(b)**

**(2) RASH CURTIS' MOTION FOR THE
COURT TO WAIVE THE
REQUIREMENT OF A BOND ON
APPEAL BY PERMITTING RASH
CURTIS TO POST AN ALTERNATIVE
FORM OF SECURITY PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 62(b)**

25
26 I, Terrence Paff, make this declaration based upon my own personal knowledge and, as such, I
27 declare:

28 1. I am the owner of KBR, Inc., d.b.a. Rash Curtis & Associates. Rash Curtis is a collection

1 agency emphasizing the collection of medical debt. I became the sole owner/shareholder of KBR, Inc. in
2 July of 2008. KBR is a small business of approximately 50 to 60 employees.

3 2. KBR/Rash Curtis is a family business in the sense that I am the owner. My wife, Natasha
4 Paff, is the Chief Administrative Officer at the company. Our daughter, Karmin Keith, works at the
5 company in Human Resources and Accounts Payable. Her husband and our son in law, Robert ("Bob")
6 Keith, is an Executive Vice President of the company overseeing, among other things, legal matters and
7 our outside attorneys. Nick Keith, Bob Keith's son, is in charge of our IT Department. Chris Paff, my
8 son, is the Executive Vice President of Operations.

9 3. Attached as **Exhibit 6** to the Index of Exhibits, filed under seal, in support of Rash Curtis'
10 Federal Rule of Civil Procedure 62(b) motion (to waive bond and to permit alternative security), are
11 certain financial records related to Rash Curtis, including its tax returns for the 2016 and 2017 tax years.
12 Rash Curtis has not yet filed tax returns for the 2018 tax year because its fiscal year ends on September
13 30. The 2017 federal and state tax returns (filed in 2018) are set forth in **Exhibit 6** at pp. RCA-116
14 through RCA-158. The tax returns for 2016 (filed in 2017) are found at **Exhibit 6**, pp. RCA-159 through
15 RCA-195. These tax returns were prepared by Rash Curtis' accountant, Lawrence Shaw, CPA, of Shaw
16 & Associates, Vacaville, California.

17 4. Rash Curtis' 2017 tax return shows a gross income of \$7,369,171 (*see Exhibit 6* at p. RCA-
18 120). The company's 2016 tax return indicates a gross income of \$7,498,219 (*see Exhibit 6*, p. RCA-
19 159).

20 5. Pages RCA-196 to RCA-211 contain various compiled financial statements from the fiscal
21 year ending September 30, 2018 (pp. RCA-196-204; the fiscal year ending September 30, 2016 (pp. RCA
22 205-207); and end of the fiscal year September 30, 2015 (pp. RCA 208-211).

23 6. As the Court can see, for the year ending September 30, 2018, KBR'S "Statement of
24 Income and Retained Earnings" shows that after costs of services and administrative expenses, the
25 company's income from operations is \$108,775 (**Exhibit 6**, RCA-200). The Court will see that the after-
26 tax net income for the company was \$28,879.00 (RCA-200). Retained earnings as of September 30, 2018
27 total \$164,018 (RCA-200). The breakdown of the administrative and other expenses of the company is
28

1 found at RCA-201. These financial statements were prepared by CPA Shaw and were based upon records
 2 kept in the ordinary course of Rash Curtis' business, and which were prepared by Mr. Shaw in the course
 3 of his rendering professional accounting services to Rash Curtis, and upon which the company relies.

4 7. In my experience, the TCPA places an onerous burden on compliance, however at RCA
 5 we have implemented protocols to comply with that burden. Rash Curtis has built compliance protocols
 6 and procedures that are TCPA compliant. Additionally, Rash Curtis has replaced our old dialer systems
 7 with the "LiveVox HCI." This calling software system requires human intervention, on every call, in
 8 order to make a call out from Rash Curtis. This human intervention cannot be bypassed, and there is no
 9 capacity or ability in the system to allow modification to permit dialing calls without human intervention.
 10 Rash Curtis employs no mechanical or artificial voices. Every call and message left, if any, is made by a
 11 live person. I understand that every court that has considered whether or not Live Vox HCI is deemed
 12 "an ATDS" pursuant to the TCPA, has determined it is not.

13 8. If the Court does not grant Rash Curtis' request to stay enforcement of the judgment, Rash
 14 Curtis will have no choice but to file for bankruptcy protection under Chapter 11 of the Bankruptcy Code.
 15 Rash Curtis has retained Binder & Malter LLP to provide advice and to file for bankruptcy protection on
 16 or before October 9, 2019 if the stay of execution is not extended.

17 9. Should a stay of enforcement not be granted and should Plaintiff commence executing on
 18 the judgment then Rash Curtis will have no choice but to liquidate the company, putting all of its
 19 employees out of work, including my wife, myself and our family who work at the company being put
 20 out of business and, as such, losing decades of hard work to make this business successful.

21 I declare under penalty of perjury under the laws of the United States of America and the laws of
 22 California that the foregoing is true and correct and that this Declaration was executed on October 7th,
 23 2019 in Vacaville, California.

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 25 
 26 _____
 27 TERRENCE PAFF
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